



9110-04-P

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 110**

**[Docket Number USCG-2018-0388]**

**RIN 1625-AA01**

**Anchorage Ground; Sabine Pass, TX**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

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**SUMMARY:** The Coast Guard is amending the anchorage regulations for the Sabine Pass Channel, Sabine Pass, TX anchorage ground for the navigational safety of vessels entering and exiting a new liquefied natural gas terminal mooring basin being constructed on the eastern waterfront of the Sabine Pass Channel. This amendment will reduce the overall size of the existing anchorage.

**DATES:** This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2018-0388 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Mr. Scott K. Whalen, Marine Safety Unit Port Arthur, U.S. Coast Guard; telephone (409) 719-5086, email: [Scott.K.Whalen@uscg.mil](mailto:Scott.K.Whalen@uscg.mil).

## **SUPPLEMENTARY INFORMATION:**

### **I. Table of Abbreviations**

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	<i>Federal Register</i>
LNG	Liquefied natural gas
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

### **II. Background Information and Regulatory History**

On June 15, 2018, we published a notice of inquiry requesting public comments in response to Sabine Pass LNG's request to disestablish the anchorage ground titled Anchorage Ground, Sabine Pass, TX (83 FR 27932). The Coast Guard received three comments in response to that notice of inquiry.

On December 21, 2018, we published a notice of proposed rulemaking (NPRM) entitled Anchorage Ground; Sabine Pass, TX in the *Federal Register* (83 FR 65609). No public meeting was requested and none was held. Additionally, no comments concerning the proposed rule were received.

### **III. Legal Authority and Need for Rule**

The Coast Guard is amending 33 CFR 110.196 under the authority in 33 U.S.C. 471. This amendment reduces the overall dimensions of the Sabine Pass Channel anchorage ground. This action will provide for the safe navigation of vessels entering and exiting Cheniere Energy's new vessel berth while retaining a portion of the anchorage for use by those vessels that continue to use the anchorage grounds.

### **IV. Discussion of Comments, Changes, and the Rule**

As noted above, we received no comments on our NPRM published December 21, 2018. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

As discussed in the NPRM, this amendment reduces the overall dimensions of Sabine Pass anchorage ground. Coordinates identifying the anchorage ground's new boundaries appear in the regulatory text at the end of this document.

## **V. Regulatory Analyses**

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders.

### **A. Regulatory Planning and Review**

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on current information, which indicates that the anchorage ground is rarely used, and that the overall reduction in anchorage area will not significantly impact those vessels desiring to use the anchorage.

### **B. Impact on Small Entities**

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires

Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operations of vessels intending to use the anchorage may be small entities, for the reasons state in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

### C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

### D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

### E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an

expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969(42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the reduction in size of an anchorage ground. It is categorically excluded from further review under paragraph L59(b) of Appendix A, Table 1 of DHS Instruction Manual 023-01-001-01, Rev. 01.

#### **List of Subjects in 33 CFR Part 110**

Anchorage grounds.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 110 as follows:

#### **PART 110—ANCHORAGE REGULATIONS**

1. The authority citation for part 110 continues to read as follows:

**Authority:** 33 U.S.C. [471](#); [33 CFR 1.05-1](#); Department of Homeland Security Delegation No. 0170.1.

2. In § 110.196, revise paragraph (a) to read as follows:

**§ 110.196 Sabine Pass Channel, Sabine Pass, TX.**

(a) *The anchorage area.* The water bounded by a line connecting the following coordinates:

Latitude	Longitude
29° 43' 59.0" N	93° 52' 08.1" W
29° 44' 06.8" N	93° 51' 57.6" W
29° 43' 53.0" N	93° 51' 47.1" W
29° 43' 36.7" N	93° 51' 50.9" W

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Dated: February 15, 2019.

Paul F. Thomas,  
Rear Admiral, U.S. Coast Guard,  
Commander, Eighth Coast Guard District.  
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